

## COMMITTEE AMENDMENT FORM

Committee: Finance/Executive Page Number(s) 2

Ordinance I.D. # 02-0-0456 Section(s) Two

Resolution I. D. # \_\_\_\_\_ Paragraph \_\_\_\_\_

Date March 13, 2002

**Amendment:** Section 2 is hereby amended so as to add a new sentence at the end thereof  
which shall provide as follows:

"Should DeKalb County cause substantial changes to be made in the proposed  
Intergovernmental Agreement, said proposed changes shall be referred back to the City  
Council for further review and approval."

**CITY COUNCIL  
ATLANTA, GEORGIA**

**02-○ -0456**

**AN ORDINANCE  
BY COUNCILMEMBER HOWARD SHOOK**

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH DEKALB COUNTY, GEORGIA, AND ASHWOOD DEVELOPMENT COMPANY CONSENTING TO THE ALLOCATION OF GOVERNMENTAL SERVICES TO BE PROVIDED TO PROPERTY OWNED AND DEVELOPED BY ASHWOOD DEVELOPMENT COMPANY WHICH IS LOCATED BOTH IN THE CITY OF ATLANTA AND DEKALB COUNTY WHICH WILL TRAVERSE JURISDICTIONAL BOUNDARIES; AND FOR OTHER PURPOSES.**

**WHEREAS**, Ashwood Development Company is the owner of certain real property more particularly described in Exhibit "A" (the "Property"). The Property is located both in the city limits of Atlanta and in unincorporated DeKalb County; and

**WHEREAS**, Ashwood Development Company proposes to develop said property and construct improvements thereon consisting of a 52 unit family residential condominium complex and related amenities (hereinafter the "Improvements"), such Improvements to be located both in the city limits of Atlanta and in unincorporated DeKalb County; and

**WHEREAS**, pursuant to these Improvements 21 condominium units will be located in the City of Atlanta and 31 condominium units will be located in unincorporated DeKalb County;

**WHEREAS**, in order to ensure the orderly, economical and logical provision of certain public services to the Property, an Intergovernmental Agreement between the City of Atlanta and DeKalb County, to which Ashwood Development Company is a party, is desirable to resolve potential governmental conflicts concerning building permits, certificates of occupancy, building

code enforcement and water and sanitary sewer service, as well as to define the first responder for police, fire and emergency services for the structure that bisects jurisdictional lines;

**WHEREAS**, an Intergovernmental Agreement is required by Article IX, Section II, Paragraph 3(b)(1) of the Georgia Constitution, to provide for the provision of certain public services by local governments outside of their jurisdictional boundaries; and

**WHEREAS**, the Council of the City of Atlanta deems it to be in the best interests of the City to enter into such an Intergovernmental Agreement;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, AS FOLLOWS:**

#### **SECTION ONE**

That the Major be authorized to execute an Intergovernmental Agreement on behalf of the City of Atlanta with DeKalb County and Ashwood Development Company which provides for the delivery of certain public services to the Property and which addresses the provision of overlapping services between jurisdictions.

#### **SECTION TWO**

That the Intergovernmental Agreement be in a form similar to that attached as Exhibit "A" hereto. This agreement shall not be binding on the City, and the City shall not incur liability on same until it is approved as to form by the City Attorney, executed by the Mayor, and delivered to the contracting parties.

#### **SECTION THREE**

That any provision of Part 8, Chapter 2, of the Code of ordinances pertaining to permitting, payment of fees and building code enforcement are hereby waived to the extent of any conflict with the delegation of such authority to DeKalb County.

#### **SECTION FOUR**

That all other ordinances and parts of ordinances in conflict herewith be waived for this time only.

## **INTERGOVERNMENTAL AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2002 by and among CITY OF ATLANTA, a political subdivision of the State of Georgia (the "City"), and DEKALB COUNTY, a political subdivision of the State of Georgia ("DeKalb County"), by and through the respective governing authorities of each said jurisdiction pursuant to the provisions of Article IX, Section II, Para. III of the Georgia Constitution of the State of Georgia of 1983, as amended, and the general, special and local laws of said state, and the resolutions and ordinances of each said jurisdiction and ASHWOOD DEVELOPMENT COMPANY, a Georgia corporation duly qualified and authorized to conduct business in the State of Georgia ("Ashwood").

### **WITNESSETH:**

WHEREAS, Ashwood is the owner of certain real property more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof (the "Property"). The Property is located both in the City (within Fulton County) and in unincorporated DeKalb County; and

WHEREAS, Ashwood proposes to develop the Property and construct improvements thereon consisting of a Fifty-Two (52) unit multi-family residential condominium complex and related amenities (the "Improvements"), such Improvements to be located in both the City and in unincorporated DeKalb County (hereinafter referred to as the "Project"); and

WHEREAS, the Project is more particularly described in a detailed site plan, including without limitation, engineer's and architect's drawings and further including that certain Site Plan for Ashwood Development Company prepared by Arcadis, Geraghty & Miller, dated July 13, 2001, (the "Plan"), a copy of which is attached as Exhibit "B" and by this reference incorporated herein; and

WHEREAS, pursuant to the Plan, Thirty-One (31) of the condominium units will be located in the unincorporated portion of DeKalb County and Twenty-One (21) of the condominium units will be located in the City; and

WHEREAS, the Property currently is zoned by the City and DeKalb County to accommodate the Project as reflected in the Plan (see Exhibit "C" attached hereto and by this reference made a part hereof for a copy of City of Atlanta legislation 01-0-0464/Z-01-07 rezoning said Property within the City of Atlanta from R-3 to PD-H and Exhibit "D" attached hereto containing City of Atlanta and Dekalb County authorizing documents); and

WHEREAS, in order to ensure the orderly, economical and logical provision of certain public services to the residents and owners of the Project, the City and DeKalb County wish to resolve any potential governmental conflicts concerning building permits, final certificates of occupancy, and building code enforcement for one or more structures which are bisected by jurisdictional lines, and to provide for water service, sewer service, utility service, emergency

# **EXHIBIT A**

services, law enforcement, judicial services; fire protection and other similar services to the entire Project; and

WHEREAS, Article IX, Section II, Paragraph III(b)(1) of the Georgia Constitution authorizes and requires local governments to enter into agreements with each other for the provision of certain public services outside their jurisdictional limits;

NOW THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten and No/100ths Dollars (\$10.00), the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, DeKalb County and Ashwood do hereby agree as follows:

### **Inspecting and Permitting**

1. The parties agree that the City shall have exclusive jurisdiction for approving, inspecting and permitting the portion of the Project located within the City, pursuant to the ordinances and regulations of the City and applicable City zoning and building code enforcement. The City will collect all fees applicable to such permitting and inspections.

2. The parties agree that DeKalb County shall have exclusive jurisdiction for approving, inspecting and permitting the portion of the Project located within unincorporated DeKalb County, pursuant to the ordinances and regulations of DeKalb County and applicable DeKalb County zoning and building code enforcement. DeKalb County will collect all fees applicable to such permitting and inspections.

3. The City assumes all responsibility for the approval and issuance of all permits relating to the construction of the portion of the Project located within the City and shall further be responsible for all inspections of the portion of the Project located within the City, including inspections to be conducted prior to the issuance of a final certificate of occupancy ("C.O.") for the Improvements located within the City and inspections to be conducted after the issuance of a final C.O. for the Improvements located within the City, all in accordance with applicable City laws, ordinances, and regulations. The City shall have sole and final authority to issue a final C.O. for the Improvements located within the City. A sign shall be appropriately placed along the internal roadway indicating entry into City of Atlanta jurisdiction. Said roadway shall be designed so that the entry into each jurisdiction is substantially uniform and consistent.

4. DeKalb County assumes all responsibility for the approval and issuance of all permits relating to the construction of the portion of the Project located within DeKalb County and shall further be responsible for all inspections of the portion of the Project located within DeKalb County, including inspections to be conducted prior to the issuance of a final certificate of occupancy ("C.O.") for the Improvements located within DeKalb County and inspections to be conducted after the issuance of a final C.O. for the Improvements located within DeKalb County, all in accordance with applicable DeKalb County laws, ordinances, and regulations. DeKalb County shall have sole and final authority to issue a final C.O. for the Improvements located within DeKalb County.

### **Water and Sanitary Sewer Services**

5. DeKalb County shall provide water service to the entire Project from the existing water line on Buford Highway, as more particularly shown on the Plan. DeKalb County Water Department will receive the application for such service, collect the appropriate tap fees and make the necessary connections. DeKalb County shall bill for water usage for the entire Project in accordance with standard practices and procedure and shall provide timely copies of said bills to the City of Atlanta as set forth in paragraph 6. The City shall not impose any service fees, entitlement fees, impact fees, tap fees or other fees on Ashwood or any subsequent owner of the Project for such water service.

6. The City shall provide sanitary sewer service to all parts of the Project. The City shall collect applicable sewer tap fees and approve the sewerage service plan for the Project. As sewer service billings are determined by water meter readings, DeKalb County shall transmit to the City of Atlanta copies of the water bills for all 52 units within ten (10) business days of the generation of each said bill. The City shall bill for sanitary sewer service and charges in accordance with standard practices and procedure and will determine the amount of sewer usage by reviewing said DeKalb County water bills to be timely provided to the City. DeKalb County shall not impose any service fees, entitlement fees, impact fees, tap fees or other fees on Ashwood or any subsequent owner of the Project for such sewer service.

### **Emergency and Other Services**

7. DeKalb County shall provide emergency services, law enforcement, library services, judicial services, fire protection, sanitation services and other similar services to the portion of the Project located in DeKalb County.

8. The City shall provide emergency services, law enforcement, library services, judicial services, fire protection, sanitation services and other similar services to the portion of the Project located in the City.

### **Indemnification**

9. To the extent permitted by law, the City shall indemnify, defend and save and hold harmless DeKalb County from and against any and all claims, demands, counterclaims, damages, disbursements, losses, judgments, liabilities, penalties, injuries, fines, litigation, lawsuits and other proceedings and costs and expenses (including reasonable attorneys' fees and expenses) which accrue against or are incurred by DeKalb County and which arise from or out of the obligations and responsibilities assumed by the City with respect to the Project as set forth in this agreement. The foregoing indemnity is in no way conditioned upon fault on the part of the City or upon any other event, occurrence, matter or circumstance, except as specifically set forth in this Agreement.

10. To the extent permitted by law, DeKalb County shall indemnify, defend and save and hold harmless the City from and against any and all claims, demands, counterclaims, damages, disbursements, losses, judgments, liabilities, penalties, injuries, fines, litigation,

lawsuits and other proceedings and costs and expenses (including reasonable attorneys' fees and expenses) which accrue against or are incurred by the City and which arise from or out of the obligations and responsibilities assumed by DeKalb County with respect to the Project as set forth in this Agreement. The foregoing indemnity is in no way conditioned upon fault on the part of DeKalb County or upon any other event, occurrence, matter or circumstance, except as specifically set forth in this Agreement.

#### **Miscellaneous**

11. This Agreement is intended to run with the land and shall be binding upon the respective governmental jurisdictions and Ashwood and any subsequent owner of the Project. This Agreement may be recorded in the real property records of DeKalb County and Fulton County.

12. Ashwood hereby agrees to all provisions of this Agreement, and waives any claim that any of the provisions made herein are unlawful, invalid, or beyond the scope of the City's or DeKalb County's lawful power to undertake.

13. This Agreement shall not be binding and may not be recorded until formal approval is granted by the appropriate authorities in each of the respective jurisdictions. By its execution hereof, each of the undersigned jurisdictions represents that all necessary action has been taken to authorize and approve this Agreement.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



IN WITNESS WHEREOF, the parties have caused this Agreement to be signed, sealed and delivered by the Chief Executive Officer of DeKalb County, Georgia and the Mayor of the City of Atlanta, Georgia each thereunto duly authorized in accordance with law as of the effective date first above stated.

Signed, sealed and delivered before  
me as of the date first above written.

CITY OF ATLANTA, GEORGIA

\_\_\_\_\_  
Notary Public

My commission expires:

[NOTARIAL SEAL]

By: \_\_\_\_\_

(SEAL)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_ (SEAL)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signed, sealed and delivered before  
me as of the date first above written.

APPROVED AS TO FORM:

\_\_\_\_\_  
Notary Public

My commission expires:

[NOTARIAL SEAL]

\_\_\_\_\_  
City Attorney (SEAL)

Signed, sealed and delivered before  
me as of the date first above written.

APPROVED:

\_\_\_\_\_  
Notary Public

My commission expires:

[NOTARIAL SEAL]

\_\_\_\_\_  
Commissioner, Public Works Department  
and Director, Bureau of Buildings (SEAL)

Signed, sealed and delivered before  
me as of the date first above written.

DEKALB COUNTY, a political subdivision of  
the State of Georgia

\_\_\_\_\_  
Notary Public

My commission expires:

[NOTARIAL SEAL]

By: \_\_\_\_\_  
(SEAL)  
Vernon Jones, Chief Executive Officer

Attest: \_\_\_\_\_  
Title: \_\_\_\_\_

*[AFFIX SEAL OF DEKALB COUNTY]*

APPROVED AS TO FORM:

ATTESTED:

\_\_\_\_\_  
Charles Hicks  
County Attorney

By: \_\_\_\_\_  
Michael Bell, Ex-Officio Clerk of the  
Chief Executive Officer and Board of  
Commissioners of DeKalb County,  
Georgia

**LARGE ATTACHMENT:**

**DOCUMENT(S),**

**MANUAL(S)**

**OR**

**MAP(S)**

**NOT COPIED,**

**PULL ORIGINAL**

**FOR COPY OR TO VIEW**